IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 309 of 1980

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GOVINDGARJI R GOSAI
Versus
CHARITY COMMISSIONER AND OTHERS

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Appearance :
MR UDAYAN VYAS for MR BHARAT J SHELAT for the Appellant
MR KJ DWIWEDI, AGP for respondent No.1
None for Respondents Nos.2 - 10.

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 26/03/2007

ORAL JUDGMENT

By filing this appeal the appellant has challenged the judgment and order passed by the learned Assistant Judge, Kutch at Bhuj dated 30th January 1980 by which the learned Judge has dismissed the Civil Misc. Application No.80 of 1978 preferred by the present appellant. The appellant had preferred an application against the order passed by the Assistant Charity Commissioner, Bhuj to the Joint Charity Commissioner, Ahmedabad, who partly allowed the said appeal against which the present appellant had preferred Civil Misc. Application No.80 of 1978, which was dismissed by the learned Assistant Judge, Kutch at Bhuj against which this appeal is preferred under Section 72(4) of the Bombay Public Trusts Act, 1950.

Learned advocate, Mr Udayan Vyas for Mr B.J. Shelat submitted that the present appellant has died since long and in spite of various reminders nobody has come forward claiming to be the heir of the original appellant. It is submitted by Mr Vyas that the appellant had died four years ago, which information was received by him from the advocate of Mandvi. In that view of the matter, in my view, when the appellant has died and since his heirs are not brought on record, the appeal is required to be dismissed as having been abated and the appeal cannot be proceeded now in absence of the heirs of the appellant being brought on record. In that view of the matter, appeal stands abated.

(P.B.MAJMUDAR, J.)

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